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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,990	09/09/2003	Francis J. Ossmann	586-056	1289
27106	7590	01/09/2006		EXAMINER
MELVIN I. STOLTZ, ESQ.				GREEN, BRIAN
51 CHERRY STREET				
MILFORD, CT 06460			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 01/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/657,990	OSSMANN, FRANCIS J.
	Examiner Brian K. Green	Art Unit 3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 October 2005.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 and 13-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11,13-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over France 2,717,776 in view of Reuben (U.S. Patent No. 5,778,574).

France '776 shows in figures 1-3 a housing (the box shown in figures 1 and 2) comprising a plurality of panels (1,3,4,etc.), a support panel (the panel which includes apertures 11 directly connected to the arm member 14 as shown in figure 3) affixed to an inside surface of a first panel comprising one of the panels forming the housing and being movable between a collapsed position and an extended position, a biasing member (12) connected to the housing for causing the panels to move from a first flat configuration to a second three-dimensional configuration, an audio signal generating assembly (13) mounted on the housing and constructed for producing a desired audio signal when activated, and an arm member (14) mounted directly to the support panel for movement therewith when the panels move from the first configuration to the second configuration. It is not clear from France '776 whether the device includes a switch which is engaged with the arm member for turning the generating assembly on and off. Reuben shows in figures 1-7 a display device that includes an arm member (19,20) that engages a switch (21 or 33) and moves when the panels move in order to allow the switch to move from an off position to an on position. In view of the teachings of Reuben it would have been obvious to one in the

art to modify France '776 by providing the switch assembly and arm member disclosed by Reuben since this would allow the device to be turned on and off in a more reliable manner and would make the switch assembly more durable. In regard to claim 2, France '776 discloses on page 1, lines 14-16, the idea of placing indicia on the outside surface of the panels forming the housing. In regard to claim 3, the housing of France '776 includes panels which are cooperatively associated with each other. In regard to claim 4, France '776 shows that the housing is three-dimensional and the configuration includes rectangles. In regard to claim 5, the device of France '776 includes an electronic circuit but it is not clear whether it includes a speaker. Reuben shows in figures 4 and 5 a speaker (24) attached to the device. In view of the teachings of Reuben it would have been obvious to one in the art to modify France '776 by attaching a speaker to the device since this would allow the device to be heard in a better and clearer manner. In regard to claim 6, France '776 shows in figure 2 that the circuit (13) is attached to the interior of the housing. In regard to claims 7 and 17, the indicia on the housing is considered to be "related" to the audible message. In regard to claim 8, France '776 discloses the idea of making the sound in the form of music or a voice message, see page 2, lines 1-4. In regard to claims 9-11, France '776 discloses that the biasing member is formed from rubber bands, see pages 2 and 3. In regard to claims 12,13,18, and 19, France '776 shows in figure 3 that the arm (14) is attached to a support panel (the panel having the holes (11) therein. In regard to claims 14,15, and 20, a panel of the housing (15) of Reuben is considered to be the interior plate.

***Response to Arguments***

Applicant's arguments filed October 20, 2005 have been fully considered but they are not persuasive.

The applicant argues that France '776 fails to show a support panel mounted within the housing which comprises an arm member directly mounted thereto which moves in response to the movement of the support panel for activating and de-activating the audio signal generating assembly. The examiner disagrees since France '776 shows in figure 3 that the support panel (the panel which includes apertures 11 directly connected to the arm member 14 as shown in figure 3) is affixed to an inside surface of a first panel comprising one of the panels forming the housing and being movable between a collapsed position and an extended position. France '776 also shows in figure 3 that the arm member (14) is directly secured to the support panel.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (571) 272-6644. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
BRIAN K. GREEN  
PRIMARY EXAMINER

Bkg  
Jan. 4, 2006